

Remarks/Arguments

The Applicants/Appellants submit that the Final Rejection of 10 November 2009 is improper for the following reasons:

1) This Application is presently on appeal from the Examiner's rejection of 13 April 2009, which re-opened prosecution in view of the Appellants' Brief filed on 29 December 2008. The Appellants filed a Notice of Appeal and Brief on 31 July 2009. A rejection at this stage of the proceedings is clearly improper.

2) If the Final Rejection of 10 November 2009 is intended as a Re-Opening of Prosecution After Appeal, it is improper for the following reasons:

a) There is no new ground of rejection, as required by MPEP 1207.04. Rather, the Final Rejection of 10 November 2009 is an explanation of why the Examiner considers the Rejection of 13 April 2009 to be proper.

b) There is no approval by a Supervisory Primary Examiner, as required by MPEP 1207.04.

c) The finality of the rejection of 10 November 2009 is improper because the rejection is neither necessitated by an amendment, nor based on an Information Disclosure Statement, as required by MPEP 1207.04.

The Applicants/Appellants submit that the instant application is in condition for allowance. The Applicants/Appellants therefore request that the Final Rejection of 10 November 2009 be withdrawn, and that the Application be passed to issue.

Respectfully submitted,
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